UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,192	06/27/2001	Ismail K. Labeeb	METABYTE-1	3912

45722   7590   06/23/2010

Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

EXAMINER
PARRA, OMAR S

ART UNIT	PAPER NUMBER
2421	

MAIL DATE	DELIVERY MODE
06/23/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/893,192	LABEEB ET AL.
	Examiner	Art Unit	
	OMAR PARRA	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03/08/2010*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20,22,23 and 26-29* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-20,22,23 and 26-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____ .

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 03/08/2010 have been fully considered but

they are not persuasive.

Applicant argues that *"Ali does not teach the limitation of <u>generating new</u>*

<u>*program traits representative of said viewer's degree of preference of a program*</u>

<u>*according to a regression analysis of the viewing habits of the particular viewer*</u>

<u>*over time*</u>*"* , Remarks, page 10. To this matter, the examiner respectfully

disagrees.

As argued by the applicant in the previous response, *"the associated traits*

of the present invention involve creating a new trait from the observance of a

user's viewing habits when combined with other traits. As disclosed in paragraph

[0086]:

"For example, a user would have a certain liking for any given Seinfeld
episode, and a certain liking for any premiere sitcom being aired for the first time.
However, its liking for a premiere episode of Seinfeld may be sufficiently large
enough to require an additional trait, "new Seinfeld" to fully explain its liking for a
premiere episode of Seinfeld." (emphasis added)".

As defined on the specification, page 15 second paragraph: "<u>Associated</u>

<u>traits</u>-Traits which have a different influence on a user's viewing habits when

combined with other traits. <u>For example</u> (emphasis added), a user would have a

certain liking for any given Seinfeld episode, and a certain liking for any premiere

sitcom being aired for the first time. However, its liking for a premiere episode of

Seinfeld may be sufficiently large enough to require an additional trait, "new

Seinfeld" to fully explain its liking for a premiere episode of Seinfeld".

As shown above, the applicant the applicant cites paragraphs [0086] and

[0087] of the specification to show an example of what Associated traits could

mean or be applied. As it is well known, 'for example' means 'one of many' and

not the actual definition of, in this case, Associated traits. The applicant should

point to the definition of the 'Associated traits' shown at the same paragraph and

not to the example that follows. As stated above, the examiner respectfully

believes that the art of record covers the Associated traits definition, if it was

necessary to examine both types of the traits. If the applicant would like the

examiner to consider both types of traits, hidden and association, the alternative

language ('or') should be changed or removed. Additionally, if the applicant

wants to rely on the example given in paragraphs [0086-[0087], specifics of said

example should be included in the claim language.

Ali teaches having 'traits which have a different influence on a user's

viewing habits when combined with other traits'. Ali teaches rating a higher value

(having a different influence on a user's viewing habits) to 'Friends' by using

user's ratings on different traits simultaneously (when combined with other traits),

in this case, 'Jennifer Anniston' and 'situation comedy', ([0077]; [0080]).

On the other hand, the references which teach analyzing user viewing

history (regression analysis) are Zigmond (col. 11 lines 11-30; col. 13 lines 5-28,

where the EPG description of the programs help to identify the 'type' of user

preferred programs) and Schaffer (col. 2 lines 54-59). Ali was brought to teach

the 'associated traits' limitation.

The newly added limitation of claim 26 is addressed in the Office Action

below.

Therefore, the examiner respectfully believes that the art of record cover

all the limitations of applicant's invention as claimed.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

3.   Claims **1-20, 22, 23, 26 and 27** are rejected under 35 U.S.C. 103(a) as

being unpatentable over Zigmond et al. (hereinafter 'Zigmond', Patent No.

6,698,020, of record) in view of Schaffer (Patent No. 7,051,352, of record) in

further view of Ali (Pub. No. 2002/0199194, of record).

Regarding claims 1 and 14, Zigmond teaches a method for displaying a

TV program to a viewer, comprising:

transmitting/receiving a plurality of TV programs, wherein at least some of

the received TV programs compete with at least some others of the received TV

programs for viewership; allowing the viewer to select one of the plurality of

received TV programs for viewing; transmitting a plurality of additional programs

(col. 7 lines 13-36);

storing data indicative of the viewer selected TV program and data

indicative of at least some others of the TV programs competing with the viewer

selected TV program; determining viewing preferences using the stored data

indicative of the user selected TV program and data indicative of at least some

others of the TV programs competing with the viewer selected TV program, as

well as one or more known program traits (col. 11 lines 11-30; col. 13 lines 5-28,

where the EPG description of the programs help to identify the 'type' of user

preferred programs).

controlling the programming displayed to the viewer in accordance with

the viewer selection and the determined viewing preferences (Fig. 6; col. 17 lines

10-50; col. 6 lines 6-9).

On the other hand, Zigmond does not explicitly teach storing data

indicative of TV programs that were not selected along with data indicative of the

viewer selected TV programs and determining viewing preferences using both

indicative data.

However, in an analogous art, Schaffer teaches a system and method for

adaptively recommending content to a viewer where record is kept or stored of

what programs have been watched and total or sample of programs not watched

(Fig. 3, col. 2 lines 38-67; col. 3 lines 28-42). Furthermore, Schaffer uses this

viewing history (programs watched/not-watched and the characteristics they

contain) to calculate or determine viewing preferences (Figs. 6 A-C, col. 4 line

20-col. 5 line 19).

Therefore, it would have been obvious to an ordinary skilled in the art at

the time of the invention to have modified Zigmond's invention with Schaffer's

feature of storing data indicative of non-selected TV programs and determine

viewing preferences using this data along with data indicative of selected

programs for the benefit of having a more close user's viewing preferences

determination by *'differentiating between the features of shows that are liked and*

those that are not liked...', Schaffer, col. 2 lines 54-59.

Additionally, Zigmond and Schaffer do not explicitly teach using one or

more known program traits and one or more associated program traits, the

associated program traits being combined with other known program traits so as

to generate new program traits representative of said viewer's degree of

preference of a program according to a regression analysis of the viewing habits

of the particular viewer over time to control the program displayed to the viewer.

However, in an analogous art, Ali teaches a system that selects content

for the user based on explicit user inputs ([0031]-[0034]), inferred user

preferences based on known program traits (based on the known features of a

program, new content is rated and further recommended to users ([0076]-[0080])

and hidden or associated program traits (correlation factors calculated from the

ratings and selections of multiple other users which measure the correlation

between a pair of programs without using the EPG characteristic of the

programs, [0039]-[0047]; [0062]). Ali's system takes the input of thousands of

other users and calculates correlation factors that are used to select new content.

These correlation factors are found to be good predictors ([0045]). Ali teaches

having 'traits which have a different influence on a user's viewing habits when

combined with other traits'. Ali teaches rating a higher value (having a different

influence on a user's viewing habits) to 'Friends' by using user's ratings on

different traits simultaneously (when combined with other traits), in this case,

'Jennifer Anniston' and 'situation comedy', ([0077]; [0078]; [0080]).

Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to have modified Zigmond and Schaffer's invention with

the use of combined new program traits as taught by Ali for the benefit of giving

more specificity and weight to the user's preferences.

Regarding claim 2, the claimed "displaying the viewer selected program

and additional programs selected in accordance with the determined viewing" is

met as disclosed by Zigmond , wherein 'viewers change the television channel to

tune into channels that are broadcasting programming' (column 13, lines 12-19)

(claimed "viewer selected program"), and 'advertisements to be shown to a

viewer are selected according to designated criteria in combination with

information that characterizes the viewer (claimed "previously determined

viewing preferences of the viewer") (column 6, lines 6-9), which are displayed on

display [61], Figure 3 and display [58], Figure 4.

Regarding claims 3 and 16, the claimed "the displaying one or more advertisements" is met since 'the user may select one of a plurality of ads' that 'the user is presented with' (Zigmond, column 9, lines 30-31; where in order to receive the plurality of advertisements needs transmission).

Regarding claim 4, the claimed "receiving a plurality of additional programs" is met as discussed in claim 3, since displaying a plurality of advertisements or "additional programs" requires the receiving of the additional programs.

Regarding claim 5, the claimed "selecting one or more of the received additional program in accordance with the previously determined viewing preferences for display to the viewer" is disclosed by Zigmond, wherein 'the user may select one of a plurality of ads' that 'the user is presented with' (column 9, lines 30-31), wherein the 'ads or "additional programs" to be shown to a viewer are selected according to designated criteria in combination with information that characterizes the viewer' (claimed "previously determined viewing preferences of the viewer") (column 6, lines 6-9).

Regarding claims 6 and 17, the claimed "receiving the plurality of programs through one or more broadcast televisions, cable television networks, computer networks, or telephone networks" is disclosed by Zigmond wherein 'programming is transmitted via any suitable program delivery channel, such as

an over-the-air broadcast, a cable provider, a consumer satellite service,

telephone lines, via the Internet, or by any other system for transmitting video

data' (column 7, lines 17-21).

Regarding claims 7 ,15 and 18, the claimed "receiving the additional

programs independently of the TV programs" is met as shown in Zigmond: figure

4, wherein ad source 62 or "additional programs" and programming source [66]

or "or TV programs" are each received independently through streams [64] and

[52] respectively.

Regarding claims 8 and 19, the claimed "receiving the plurality of TV

programs on a first set of TV channels" and "receiving the plurality of additional

programs on a second set of TV channels" is disclosed by Zigmond wherein

"advertisement stream 64 may be broadcast on a dedicated channel during a

late night period of time when relatively few viewers are watching television" TV

programs are on a different channel (column 18, lines 10-15).

Regarding claims 9 and 20, Zigmond discloses "multiplexing

advertisement stream 64 into video programming feeds 38 and 39," (column 18,

lines 20-21) which meets the claimed "receiving the additional programs

multiplexed with one or more of the TV programs."

Regarding claim 10, the claimed "storing the received additional programs for subsequent display to the viewer" is met by Zigmond's "a local repository having stored therein a plurality of advertisements, from which an advertisement stream 64 is delivered to the ad insertion device" (column 8, lines 2-7), which is later displayed on display [58].

Regarding claim 11, the claimed "displaying the viewer selected program and additional programs selected in accordance with the previously determined viewing preferences of the viewer from among the stored additional programs" is disclosed by Zigmond. wherein 'viewers change the television channel to tune into channels that are broadcasting programming' (column 13, lines 12-19) (claimed "viewer selected program") and "a device such as advertisement repository 86 of FIG. 5 may be used to store the transmitted advertisements for later selection and display" (column 18, lines 1-11).

Regarding claims 12 and 22, the claimed "receiving a plurality of additional programs including targeting parameters related to the previously determined viewing preferences of the viewer" is disclosed by Zigmond wherein the "plurality of additional programs" are met as discussed in claim 4, and wherein "The viewer and system information may include data provided by the viewer upon initiation of the services provided by the ad insertion device 80, such as a

voluntary survey or questionnaire filled out during the registration process"

(column 10, lines 36-48).

Regarding claims 13 and 23, the claimed "targeting parameters include

one or more of TV viewing preferences, demographic information, and additional

program display schedule information" is disclosed by Zigmond wherein

'advertisements to be shown to a viewer are selected according to designated

criteria in combination with information that characterizes the viewer (claimed

"viewing preferences"), the content of video programming feed (claimed

"additional program display schedule information"), and the geographical

location of the household' (claimed "demographic information") (column 6, lines

6-9). Furthermore, "viewer demographic data may be stored in storage location

82, including age, sex, income, preferred language, number of residents, or

similar information (claimed "demographic information") (column 10, lines 48-

54). Also, "the advertisement parameters include, for example, a description of

the content of the advertisement, codes that identify the subject matter of the

advertisement, or other mechanisms for characterizing the advertisement so

that the advertisement may be displayed to an appropriate segment of the

viewing population...the ad selection rules used to match the viewer and system

information of storage location 82 or the programming content information of

electronic program database 81 with the advertisement parameters associated

with the advertisements" (claimed "additional program display schedule

information") (column 11, lines 31-49).

Regarding claims 26 and 27, Zigmond, Shaffer and Ali teach wherein

performing said regression analysis results in the introduction of one or more

additional traits used to improve the determination of the viewer' s preference

when an average error value between the selected program and one or predicted

programs determined in the regression process does not converge to a given

value (Ali teaches having 'traits which have a different influence on a user's

viewing habits when combined with other traits'. Ali teaches rating a higher value

(having a different influence on a user's viewing habits) to 'Friends' by using

user's ratings on different traits simultaneously (when combined with other traits),

in this case, 'Jennifer Anniston' and 'situation comedy', ([0077]; [0078]; [0080].

Additionally, Ali teaches that the content with more specificity -i.e. an additional

trait, ratings input by user, etc, have a higher 'confidence value as predictors',

they are weighted more, and therefore, reducing the error, [0078]-[0080]; [0088]).

4.   Claims **28 and 29** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Zigmond et al. (hereinafter 'Zigmond', Patent No. 6,698,020,

of record) in view of Schaffer (Patent No. 7,051,352, of record) in view of Ali

(Pub. No. 2002/0199194) in further view of Maissel et al. (hereinafter 'Maissel',

Pub. No. 2003/0088872).

Regarding claim 28, Zigmond teaches a method for displaying a TV

program to a viewer, comprising:

receiving a plurality of TV programs, wherein at least some of the received

TV programs compete with at least some others of the received TV programs for

viewership; allowing the viewer to select one of the plurality of received TV

programs for viewing; transmitting a plurality of additional programs (col. 7 lines

13-36);

storing data indicative of the viewer selected TV program and data

indicative of at least some others of the TV programs competing with the viewer

selected TV program; determining viewing preferences using the stored data

indicative of the user selected TV program and data indicative of at least some

others of the TV programs competing with the viewer selected TV program, as

well as one or more known program traits (col. 11 lines 11-30; col. 13 lines 5-28,

where the EPG description of the programs help to identify the 'type' of user

preferred programs);

controlling the programming displayed to the viewer in accordance with

the viewer selection and the determined viewing preferences (Fig. 6; col. 17 lines

10-50; col. 6 lines 6-9).

On the other hand, Zigmond does not explicitly teach storing data

indicative of TV programs that were not selected along with data indicative of the

viewer selected TV programs and determining viewing preferences using both

indicative data.

However, in an analogous art, Schaffer teaches a system and method for

adaptively recommending content to a viewer where record is kept or stored of

what programs have been watched and total or sample of programs not watched

(Fig. 3, col. 2 lines 38-67; col. 3 lines 28-42). Furthermore, Schaffer uses this viewing history (programs watched/not-watched and the characteristics they contain) to calculate or determine viewing preferences (Figs. 6 A-C, col. 4 line 20-col. 5 line 19).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Zigmond's invention with Schaffer's feature of storing data indicative of non-selected TV programs and determine viewing preferences using this data along with data indicative of selected programs for the benefit of having a more close user's viewing preferences determination by *'differentiating between the features of shows that are liked and those that are not liked...',* Schaffer, col. 2 lines 54-59.

Additionally, Zigmond and Schaffer do not explicitly teach using one or more known program traits and one or more associated program traits, the associated program traits being combined with other known program traits so as to generate new program traits representative of said viewer's degree of preference of a program according to a regression analysis of the viewing habits of the particular viewer over time to control the program displayed to the viewer.

However, in an analogous art, Ali teaches a system that selects content for the user based on explicit user inputs ([0031]-[0034]), inferred user preferences based on known program traits (based on the known features of a program, new content is rated and further recommended to users ([0076]-[0080]) and hidden or associated program traits (correlation factors calculated from the ratings and selections of multiple other users which measure the correlation

between a pair of programs without using the EPG characteristic of the

programs, [0039]-[0047]; [0062]). Ali's system takes the input of thousands of

other users and calculates correlation factors that are used to select new content.

These correlation factors are found to be good predictors ([0045]). Ali teaches

having 'traits which have a different influence on a user's viewing habits when

combined with other traits'. Ali teaches rating a higher value (having a different

influence on a user's viewing habits) to 'Friends' by using user's ratings on

different traits simultaneously (when combined with other traits), in this case,

'Jennifer Anniston' and 'situation comedy', ([0077]; [0078]; [0080]).

Therefore, it would have been obvious to one of ordinary skill in the art at

the time of the invention to have modified Zigmond and Schaffer's invention with

the use of combined new program traits as taught by Ali for the benefit of giving

more specificity and weight to the user's preferences.

Finally, Zigmond, Schaffer and Ali do not explicitly teach monitoring

multiple users, identifying whether a viewer profile has been created for said

viewer; creating said viewer profile if said viewer profile has not been created for

said viewer.

However, in an analogous art, Maissel teaches an intelligent system that

is able to monitor and store data of viewed programs for multiple profiles or users

([0062]; [0090]). The system is able to identify if a viewer is a new viewer and

creates a profile for him/her. Viewing information and user's information is stored

in said profile ([0226]-[0229]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Zigmond, Schaffer and Ali's invention with Maissel's feature of monitoring and storing viewing preference data for multiple viewers for the benefit of expanding and individualizing the system recommendations to all the components of a household.

Regarding claim 29, Zigmond, Schaffer, Ali and Maissel teach further comparing said stored data indicative of said viewer selected TV program and data indicative of at least some others of the TV programs competing with the viewer

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this
final action.

Any inquiry concerning this communication or earlier communications from
the examiner should be directed to OMAR PARRA whose telephone number is
(571)270-1449. The examiner can normally be reached on 9-6 PM (M-F, every
other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax
phone number for the organization where this application or proceeding is
assigned is 571-273-8300.

Information regarding the status of an application may be obtained from
the Patent Application Information Retrieval (PAIR) system. Status information
for published applications may be obtained from either Private PAIR or Public
PAIR. Status information for unpublished applications is available through
Private PAIR only. For more information about the PAIR system, see http://pair-
direct.uspto.gov. Should you have questions on access to the Private PAIR
system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-
free). If you would like assistance from a USPTO Customer Service
Representative or access to the automated information system, call 800-786-
9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

OP